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Paper No. 5

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In re Application of
Benz
Application No. 09/695,028
Filed: October 24, 2000
Attorney Docket No. BUR9-2000-0047-US1
Title: METHOD FOR THIN FILM LASER
REFLECTANCE CORRELATION FOR
SUBSTRATE ETCH ENDPOINT

OFFICE OF PETITIONS
A/C PATENTS

DECISION DISMISSING
PETITION

This is a decision on the petition, filed on January 5, 2001, requesting that a Notice of Omitted Item(s) ("Notice"), mailed on December 15, 2000 for the above-identified application, be withdrawn.

The petition is **DISMISSED**.

The application was filed on October 24, 2000. However, on December 15, 2000, the Initial Patent Examination Division of the Office mailed the Notice stating that the application had been accorded a filing date of October 24, 2000, and advising Applicant that Figures 4C, 4D, 5C, 5D, 6C, and 6D described in the Specification appeared to have been omitted from the application as filed.

In response, the present petition was filed. The petition contends that these "omitted" figures, i.e., "Figures 4C, 4D, 5C, 5D, 6C and 6D," never existed, do not exist, and have not been described in the Specification filed in the Office on October 24, 2000. Petitioner does state, however, that the word "6D" on page 6, line 10 of the Specification is a typographical error and has been corrected in a preliminary amendment submitted with the present petition.

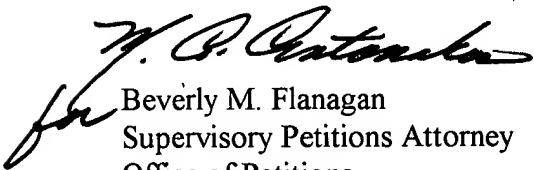
A review of the Specification filed on October 24, 2000 confirms that other than the wording of "Figures 4A-6D" at line 10 of page 6 of the Specification, "Figures 4C, 4D, 5C, 5D, 6C and 6D" have not been mentioned or described anywhere else in the Specification. Further, the drawings as contained in the Office file are depicted on 3 sheets: Figures 1A, 1B, 2A, 2B, 3A and 3B on the first sheet; Figures 4A, 4B, 5A, 5B, 6A and 6B on the second sheet; and Figures 7 and 8 on the third and last sheet. Therefore, it is now clear from the petition that, but for the typographical error as noted by Petitioner, the apparently omitted figures indicated in the December 15, 2000 Notice do not exist in the application filed on October 24, 2000.

However, the December 15, 2000 Notice was at least correct in advising Applicant that Figure "6D" appeared to have been omitted since it was referred to in the Specification. Therefore, this Notice was properly mailed and will not be withdrawn. The petition is thus dismissed.

Given that the present petition would have been necessitated had there only been the typographical error concerning Figure "6D," the \$130 petition fee has been charged to Assignee's Deposit Account No. 09-0456 as authorized in the present petition.

The application is being returned to the Initial Patent Examination Division for further processing of the application, including the preliminary amendment submitted with the present petition, with a filing date of October 24, 2000.

Telephone inquiries concerning this matter may be directed to Petitions Attorney RC Tang at (703) 308-0763.

A handwritten signature in black ink, appearing to read "B. M. Flanagan", with a stylized flourish at the end.

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy